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Stephen L. Smay – NY, MI, DC  
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December 22, 2016

Via ECF

Honorable Vera M. Scanlon  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: Hannah Josiah v. New York City Transit Authority, et. al.  
1:16-cv-00642 (JBW)(VMS)

Your Honor:

I represent Plaintiff Hannah Josiah in this matter and write to respectfully request, *for the second time*, to withdraw as Plaintiff's attorney in this matter, pursuant to Local Civil Rule 1.4.

By way of background, Plaintiff filed her Complaint on February 7, 2016.

1. On August 18, 2016, Ms. Josiah demanded, in writing, that I surrender her entire litigation file to her "new lawyer."
2. I explained that I could not turn over her file until another attorney advised me in writing that they were assuming the handling of her case and the incoming attorney filed a Notice of Appearance with the Court.
3. Subsequently, and on August 24, 2016, I moved to withdraw as counsel by Motion to Withdraw as Attorney [Doc. 21].
4. On August 25, 2016, Defendants filed a Response to said Motion [Doc. 22] and the Court scheduled a Hearing to be held on September 12, 2016, with Plaintiff present.
5. At the Hearing, the Court denied my Motion to Withdraw as Attorney and Hannah Josiah thanked the Court for its decision in that regard.
6. The parties then moved forward with six (6) depositions; the time and expense associated with same; and medical examinations attended by Plaintiff as scheduled by

Defendants. Plaintiff and her dog, Jasper, also appeared for a service-dog assessment as scheduled by defendants.

7. I also retained doctors to provide written reports after examining Plaintiff, who would testify as experts at Plaintiff's trial in this matter, should the case not resolve by settlement or dispositive motion practice.
8. On December 6, 2016, a Conference was held before the Court and Plaintiff appeared along with me. Plaintiff again thanked the Court for not allowing me to withdraw as her attorney.
9. On the dates of December 15<sup>th</sup> through 17<sup>th</sup>, I made numerous attempts to contact Plaintiff by phone (calls and texts) and email, but I did not hear back from her.
10. On the evening of Sunday, December 18, 2016, I received an email from Plaintiff directing me to stop contacting her as she had retained new counsel.
11. On December 20, 2016, Joseph M. Stancati, Esq., filed his Notice of Appearance with the Court [Doc. 27] and Mr. Stancati and I spoke.
12. Later that day, and on December 20, 2016, I filed a Notice of Attorney Charging Lien [Doc. 28] to protect my firm's entitlement to any monetary recovery obtained by Hannah Josiah in this proceeding, for which I have already provided legal services.
13. On December 21, 2016, Mr. Stancati came to my office to take the file contents of this matter for photocopying.
14. I also advised Mr. Stancati of my firm's expenses in this matter to date, which total \$3,083.21. (Exhibit 1)
15. My disbursements in the amount of \$3,083.21 are to be paid to me upon surrender of the file to the incoming attorney. *See Schneider, Kleinick, Weitz, Damashek & Shoot v. City of New York*, 302 AD2d 183, 754 N.Y.S. 2d 220 [1<sup>st</sup> Dept. 2002] (a court may not order the return of the file before the client has fully paid the attorney's disbursements).
16. Although Mr. Stancati did not agree to reimburse me for my firm's expenses to date, I nonetheless provided him the file contents for copying so as to not further delay this matter and in the best interest of Plaintiff, Hannah Josiah. Mr. Stancati has copied the file contents and returned the originals to me.
17. The posture of this case is that discovery is largely complete, with the exception of defense counsel possibly conducting depositions of doctors Plaintiff had been treated by. A Status Conference is scheduled for January 6, 2017, at 9:30 a.m.

18. Pursuant to the Scheduling Order [Doc. 26] all discovery must be completed by April 28, 2017 and on or before May 3, 2017, the parties are to file a Joint Status Report Letter confirming that discovery is complete. On or before June 2, 2017, the parties are to initiate dispositive motion practice in accordance with the District Judge's Individual Rules. And on or before June 30, 2017, the parties will file their Joint Proposed Pretrial Order.
19. In light of the foregoing, I respectfully request that the Court schedule a Hearing concerning my *Second* Motion to Withdraw as Attorney and to also address my request that Plaintiff's incoming attorney, Joseph Stancati, Esq., immediately reimburse me for the expenses my firm has incurred to date, as is commonplace when an incoming attorney takes over the handling of a matter from the former attorney.
20. I also ask that my name remain on the docket of this matter so that I may be kept informed of the posture, for purposes of later enforcing my Attorney Charging Lien.

Respectfully submitted,



Michael J. Redenburg

cc: Hannah Josiah (via U.S. Mail)  
Jim Kerwin, Esq. (via ECF)  
Byron Zinonos, Esq. (via ECF)  
Joseph M. Stancati, Esq. (via ECF)